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CONCORD, N.H.

Mr. Russell B. Tobey
Director of Recreation
Forestry and Recreation Division
State House Annex
Concord, New Hampshire

Dear Mr. Tobey:

This is in reply to your letter of August 25, 1958 in which you refer to the following resolution passed by the Governor and Council on September 6, 1940.

"BE IT RESOLVED that with the exception of lands and easements used for institutional purposes and lands and easements dedicated to specific uses by statute, donation or dedication, that part of all lands and easements now owned or controlled by The State of New Hampshire, which come within a distance of one hundred feet measured each way from the center line of any highway maintained in whole or in part by The State of New Hampshire, be and hereby are declared a part of the right of way of such highway on which these lands and easements abut and are subject to the control and regulation of the Highway Commissioner of The State of New Hampshire."

You also refer to Laws 1925, chapters 101 and 260 under which the Franconia Notch State Park was acquired and dedicated to the purpose of a forest reservation and state park as a memorial to the men and women of New Hampshire who have served the nation in times of war. You then request our opinion as to whether lands within the Franconia Notch State Park which lie within a distance of 100 feet measured each way from the center line of the so-called Notch Highway and subject to the control and regulation of the Department of Public Works and Highways by virtue of the foregoing resolution of the Governor and Council.

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Mr. Russell B. Tobey

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Our answer is in the negative. The resolution specifically excepts "lands and easements dedicated to specific uses by statute". It seems very clear under the provisions of Laws 1925, chapter 101, section 5 and Laws 1925, chapter 260, that the Franconia Notch State Park is "land dedicated to a specific use by statute", and it would therefore not be within the terms of this resolution.

Sincerely yours,

John J. Zimmerman
Assistant Attorney General

JJZ/lt